

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SARAH DOTY,
Plaintiff,
v.
CITY OF SANTA CLARA, et al.,
Defendants.

Case No. 14-CV-03739-LHK

**ORDER RE: JOINT DISCOVERY
STATUS REPORT**

Re: Dkt. No. 23

Plaintiff Sarah Doty (“Plaintiff”) filed a Complaint against the City of Santa Clara and Defendant Officers Does 1 through 50 (“Defendant”) on August 18, 2014. ECF No. 1 (“Compl.”). Plaintiff’s allegations stem from two incidents involving Santa Clara police officers, one on June 18, 2013, at City Hall, and another on December 31, 2013, after Plaintiff called the police in response to hearing her neighbor engage in construction activities after-hours.

During a case management conference on June 10, 2015, Defendant indicated that Plaintiff had failed to respond to Defendant’s discovery requests, which were served on April 3, 2015. ECF No. 22. The Court issued an Order to Show Cause why this case should not be dismissed with prejudice for failure to prosecute and ordered that Plaintiff must serve substantive responses to Defendant’s interrogatories and produce documents responsive to Defendant’s requests for

1 production. *Id.* The Court further ordered that “[f]ailure to do so by June 17, 2015, will result in
2 an order dismissing this case with prejudice for failure to prosecute.” *Id.* The parties were
3 ordered to file, by June 18, 2015, a Joint Discovery Status Report. *Id.*

4 On June 18, 2015, the parties filed a Joint Discovery Status Report (“Report”). ECF No.
5 23. Because Plaintiff responded to Defendant’s outstanding interrogatories and requests for
6 production, the Court hereby VACATES its prior Order to Show Cause and will not at this time
7 dismiss with prejudice Plaintiff’s case for failure to prosecute. Plaintiff must comply with its
8 discovery obligations or face future dismissal with prejudice for failure to prosecute.

9 In the “Report,” Defendant contends that Plaintiff violated this Court’s Order by failing to
10 produce documents, such as her phone or medical records, in response to Defendant’s requests for
11 production. *Id.* Although the Court is disappointed that Plaintiff failed to produce these
12 documents, Plaintiff contends that after a diligent search Plaintiff was unable to locate responsive
13 documents. *Id.* The Court cannot Order Plaintiff to produce documents that the Plaintiff does not
14 possess. Plaintiff also stated that “Plaintiff has no problem providing any of the requested
15 documents once in her possession, control and or once they exist and they are in her possession or
16 control.” Accordingly, Plaintiff is hereby ORDERED to take prompt and reasonable steps to
17 obtain the requested documents from her medical provider(s) and telephone company and to
18 provide these records to Defendant. Plaintiff will be precluded from relying on any evidence
19 responsive to Defendant’s discovery requests that Plaintiff does not timely produce during
20 discovery.

21 All future discovery disputes shall be presented to Magistrate Judge Lloyd.

22 **IT IS SO ORDERED.**

23
24 Dated: June 22, 2015

Lucy H. Koh

LUCY H. KOH
United States District Judge